IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2004

CORAM

THE HONOURABLE MR.JUSTICE N.DHINAKAR
AND
THE HONOURABLE MR.JUSTICE F.M. IBRAHIM KALIFULLA

Writ Appeal No. 2267 of 2004

The Secretary
Sridevi Girls Hr. Sec.School
Kollamcode & Post,
Kanyakumari District. ..Appellant

-Vs-

1. S. Vijayalakshmi Amma

2. The Government of Tamil Nadu, rep.
by its Secretary, School Education
Department, Fort St. George,
Chennai - 600 009.

3. The Director of School Education,
College Road, Chennai - 600 006.

4. The District Educational Officer,
Kuzhithurai District,
Kanyakumari District. ..Respondents

Prayer: Writ Appeal against the order passed by His Lordship Mr. Justice P. Sathasivam in W.P. No. 37538/2002 on 29.8.2003.

!For Appellant :: Mr.AR.L. Sundaresan

^For Respondents : ---
:J U D G M E N T
(Judgment of the Court was delivered by F.M. Ibrahim Kalifulla,J.)
The fourth respondent in the writ petition, which is a school management, is the appellant before us. The challenge is to the order of the learned Single Judge dated 29.8.2003 in W.P. No. 37538 of 2003 holding that the first respondent herein, who reached the normal age of superannuation on 31.8.2002 was entitled to continue in service till the end of that academic year namely, 31.5.2003 in view of the benefit granted in G.O.Ms. No. 1712 dated 5.8.1976. By virtue of the declaration made by the learned Single Judge, the first respondent was also paid her salary for the period from 1.9.2002 to 31.5.2003. However, the appellant has preferred this writ appeal

inasmuch as the appellant wants to rely upon a decision of His Lordship Mr.Justice E. Padmanabhan dated 31.10.2002 in W.P. No. 10791 of 1996 wherein the learned Judge took the view that extension of service cannot be claimed as a matter of right. The learned Judge was of the view that apart from the provision contained in the Government Order disabling any person against whom disciplinary action was initiated, the benefit granted in paragraph 3 of the said Government Order would be available only to such of those teachers who happen to retire from service in an academic year beyond the month of December of the relevant year. It is based on the above said view of the learned Judge that the appellant seeks to challenge the order of the learned Single Judge in this writ appeal.

2. In view of the submission made on behalf of the appellant, when we perused G.O.Ms. No. 1712 dated 5.8.1976, the benefit of extension which has been granted by the said Government Order is in the following terms:

"3. The teaching staff who retire in the middle of the academic year, shall be sanctioned re-employment from the day following the last day of the month in which they attain the age of superannuation and the period of re-employment shall be upto the day on which the school closes for vacation."

A plain reading of the above paragraph makes it clear that any teaching staff, who retires in an academic year should be sanctioned reemployment from the day following the last day of the month in which the said staff attains the age of superannuation and that should be extended upto the day on which the school closes for vacation. From the above extract, we do not find any scope to conclude that the expression"middle of the academic year" would indicate the period beyond the month of December of the relevant academic year. If such an interpretation is given to the said expression, then, in our view, that would defeat the very purport of the Government Order, which seeks to grant benefit to those teaching staff, who retire in the midst of an academic year. Therefore, in order to achieve the purport of the Government Order in question, it will have to be interpreted in a liberal manner.

3. In the order dated 31-10-2002 in W.P.No.10791 of 1996, Justice E.Padmanabhan, by making a reference to the dictionary meaning of the word 'middle' held that the Government Order should be interpreted to mean the exact middle part of the academic year, namely, the sixth month of the year following the commencement of the beginning of the respective Academic year. We are unable to subscribe to the said view. We say so because, even going by the dictionary meaning, we find that the expression 'middle' gets different shades of meaning when it is used in different contexts. For our clear understanding, we feel it worthwhile to refer to the dictionary meaning of the words ' middle age', 'middle-aged spread' 'middle class', 'middle distance', ' middle east', 'middle England' and 'middle weight' which are as under as stated in the Concise Oxford Dictionary:

"Middle age:- the period between youth and old age, about 45 to 60

Middle-aged spread:- the fat that may accumulate in middle age around the waist and abdomen.

Middle class:- the social group between the upper and working classes; professional and business people.

Middle distance:- 1. the part of a real or painted landscape between the foreground and the background. 2. (as modifier) Athletics, denoting or relating to a race distance of between 800 and 5,000 metres.
Middle East:- an area of SW Asia and northern Africa, stretching from the Mediterranean to Pakistan and including the Arabian Peninsula.
Middle England:- the conservative middle classes in England.
Middle weight:- a weight in boxing and other sports intermediate between welterweight and light heavy-weight."
Going by the above, we can easily hold that the expressions ' middle of the Academic year' used in the relevant G.O. cannot be given a restricted meaning as stated by the learned Judge in W.P.No.10791 of 19 96. Therefore, having regard to the context in which the said expression has been used it will have to be necessarily held that that would refer to the retirement of such teaching staff in between any part of the relevant academic year and not necessarily on the exact month in between that academic year. Only such an interpretation alone would achieve the purport of the Government Order and not otherwise. Therefore, looked at from any angle, we are unable to approve of the view expressed by E. Padmanabhan,J. in his order dated 31.10.2002 in W.P. No. 10791 of 1996 and that part of the order of the learned Judge shall stand overruled.

4. We, therefore, hold that the benefit granted in paragraph 3 of G.O.Ms. No. 1712 dated 5.8.1976 would enure to the benefit of all those teaching staff, who retire in between any part of the academic year and not necessarily in the middle month of that academic year. In view of the above said legal position, we do not find any ground to interfere with the order impugned in this writ appeal and the writ appeal is accordingly dismissed.

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Index : Yes
Internet : Yes

To

1. Secretary, School Education
Department, Fort St. George,
Chennai - 600 009.

2. The Director of School Education,
College Road, Chennai - 600 006.

3. The District Educational Officer,
Kuzhithurai District, Kanyakumari District.